

FRONT LINE

Report

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OFFICE OF THE MISSOURI ATTORNEY GENERAL

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U.S. Supreme Court limits car searches

In a significant 5-4 decision, the U.S. Supreme Court overturned 28 years of precedent and held that police officers may no longer search a vehicle as part of a “search incident to arrest.”

In *Arizona v. Gant*, the Supreme Court held that officers may not search a suspect’s vehicle, even when the suspect was in it when arrested, absent some justification other than the suspect was arrested.

Since 1981, the law seemed clear that when an officer made a custodial arrest of an occupant of a vehicle, the entire car interior, including containers in it, automatically could be searched.

No more. The court stated in *Gant* that a “motorist’s privacy interest in his vehicle” is “important and deserving of constitutional protection.”

When making a custodial arrest, officers still may conduct a search incident to arrest of the person, looking

Everything changes



A vehicle no longer can be searched simply because the driver or an occupant was arrested.

Arizona v. Gant
No. 07-542
U.S. Supreme Court
April 21, 2009

for weapons and evidence. But they may no longer search the vehicle.

The court said there are two situations in which a limited search will be permissible incident to the arrest:

1. When “the arrestee is unsecured

and within reaching distance of the passenger compartment during the search.” This situation will be rare — an arrested suspect should not be allowed to roam unrestrained when a vehicle is searched.

2. When the officer has reason “to believe evidence relevant to the crime of arrest might be found in the vehicle.” It is unclear whether the court means the officer must have “probable cause” or “reasonable suspicion.” However, when an arrest is made for a traffic violation, it is unlikely an officer will have cause to believe evidence related to the violation will be in the car.

The impact of this decision is both dramatic and uncertain. Over the next several months, courts will be rendering decisions interpreting the scope of the *Gant* decision. Front Line Report will provide updates as rulings are made.

Academy of Sciences report challenges reliability of some forensic evidence

The National Academy of Sciences released a report on Feb. 18 that questions the reliability of several forensic methods used by criminal labs around the country.

The report, titled “Strengthening Forensic Science in the United States: A Path Forward,” is likely to be used by defense attorneys in Missouri and elsewhere to challenge the admission of scientific tests and comparisons that routinely have been accepted by most courts as admissible evidence

SEE EVIDENCE RELIABILITY CHALLENGED, Page 8

AG Koster sweeps state for bogus police fundraisers

“Operation Broken Charity” part of nationwide sweep

Attorney General Chris Koster on May 20 declared “Operation Broken Charity” in Missouri, announcing legal actions his office is taking against fraudulent charity fundraisers. Missouri’s action is part of a nationwide sweep of fake fundraisers claiming to help police, firefighters and veterans.

Koster made his announcement alongside Federal Trade

SEE FAKE FUNDRAISERS SUED, Page 7

Officers create team to plan police funerals

Strive to properly honor fallen officers

The murder of two police officers in Kirkwood early last year resulted in the creation of the Missouri Law Enforcement Funeral Assistance Team to help plan and carry out police funerals, with an emphasis on line-of-duty deaths.

Cpl. Scott Barthelmass of the Overland Police Department and a group of officers established the assistance team that, on request, will help organize a funeral, connect the fallen officer's family with experts to apply for benefits, and ensure critical incident stress debriefing services are available to personnel after a death.

MOLEFAT also has assembled a law enforcement funeral guide for Missouri and is creating a statewide honor guard, a mounted honor guard, and a pipe and drum corps to support its

CONTACT MOLEFAT FOR HELP

To request assistance or get more information, contact MOLEFAT or Cpl. Scott Barthelmass:
www.mopolicefuneral.org
 314-565-2480
scottbarthelmass@yahoo.com

primary mission.

Efforts are under way to establish a response team in the Kansas City area, with personnel from the Gladstone Department of Public Safety leading the effort, Barthelmass said. "Our long-term goal is to have four or five response teams with equipment trailers across the state."

MOLEFAT received its first request for help from the University City Police Department following the murder of Sgt. Michael King on Oct. 31, 2008. The team, along with the Missouri Fire Service Funeral Assistance Team,

helped plan and carry out the funeral.

"Planning funerals of this magnitude is an incredible task," said Susan King, widow of Sgt. King. "After being part of one, I am still overwhelmed by the sheer size and logistics involved. And yet I am amazed at how flawlessly everything worked together and was absolutely perfect ... a fitting tribute to my husband. Needless to say, I was very distraught at the time and they took care of everything down to the last detail."

In February, MOLEFAT helped the Vinita Park Police Department with funeral arrangements for Chief Michael Webb, who died of cancer. The team also has provided guidance to several other agencies statewide in planning police funerals.

MOLEFAT has garnered the support of many local law enforcement agencies and entities across the state, Barthelmass said. It is one of only four statewide funeral teams in the country.

Koster: Death penalty appropriate in trooper's murder

Attorney General Chris Koster said the death penalty sentence given to a Van Buren man who killed Missouri State Highway Patrol Sgt. Carl Dewayne Graham Jr. is appropriate.

Koster commended Carter County Circuit Judge David Evans for considering the facts of the case and accepting the Attorney General's recommendation to impose the death sentence.

Evans sentenced Lance Shockley to death on May 22 for the brutal ambush killing of the trooper in 2005. Shockley was found guilty of first-degree murder

“The death penalty is an appropriate punishment for the most heinous crimes, and certainly the murder of one of our trusted law enforcement officials merits this ultimate punishment.”

~ Attorney General Chris Koster

and armed criminal action earlier this year. Graham had finished a shift and gone home when Shockley shot Graham, 37, in the back. Graham

had been investigating a fatal crash involving Shockley.

"Our uniformed officers are the guardians of our communities and they knowingly put their lives on the line every day," Koster said. "For their protection of us, we owe them the strongest legal protections. We cannot undo the terrible crime of Sgt. Graham's murder. But we can let our law enforcement community know when one of them is intentionally harmed, we will react with swift and severe legal action."



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FINDINGS OF FACT**Paul Taylor v. State**

No. 68964, Mo.App., W.D., Oct. 28, 2008

Paul Taylor filed a motion for post-conviction relief claiming his trial counsel was ineffective in failing to introduce an exhibit and for failing to restate a question to the venire panel after an objection to the initial question was sustained.

The motion court entered its order denying the motion stating that trial counsel “was not ineffective, as a review of the transcript shows, for failing to offer defendant’s Exhibit A into evidence or for failing to rephrase a question after the court had in part validated defense counsel’s point.”

On appeal, Taylor claims he was entitled to specific findings of fact on his claims.

The court agreed, finding that a motion court must make specific findings of fact to support its conclusions of law. Findings cannot be supplied by implication from the order. Without sufficient findings from the motion court, meaningful appellate review cannot be had.

FIRST-DEGREE MURDER, CIRCUMSTANTIAL EVIDENCE**State v. Freeman**

269 S.W.3d 422

Mo. banc, Oct. 28, 2008

The evidence supporting the defendant’s first-degree murder conviction was that the defendant and the victim were regulars at a local club.

On the night of the murder, the defendant and victim were both at the club for several hours. The only contact they had was when they argued over whose turn it was to use the pool table and the defendant’s later attempt to buy the victim a drink, which she refused.

The defendant left the club carrying an empty liquor bottle 15 minutes before the victim left. The victim’s body was found the next day in her apartment; she had been strangled

UPDATE: CASE LAW

Opinions can be found at
www.courts.mo.gov

and had suffered a blow to her head. The victim also had injuries to her genital area caused just before death by penetration of a foreign object.

The defendant’s DNA was found on a piece of toilet tissue under the victim’s shoulder and on the stocking used to strangle her. The appeals court held that the evidence was insufficient to prove the defendant was the murderer since there could be an innocent explanation for the presence of his DNA, especially since the two had been at the same club on the night of the murder.

The Missouri Supreme Court took transfer of the case and held that the evidence was sufficient and that the appeals court had not used the appropriate standard of review. The appropriate standard is to view the evidence in the light most favorable to the verdict, not to indulge in inferences inconsistent with a finding of guilt.

State v. Abdelmalik

273 S.W.3d 61

Mo.App., W.D., Oct. 31, 2008

The defendant was convicted of capital murder for a 1980 murder based on a 2003 test of material scraped from under the victim’s fingernails that contained the defendant’s DNA. The appeals court noted that the substantial amount of DNA material — more than eight times the amount that can be transferred by casual contact — found was inconsistent with casual contact. The material found was skin and blood, the victim was killed after an apparent struggle, the defendant worked a short distance from the victim’s apartment, and the defendant admitted that the victim and her apartment building looked familiar to him, but otherwise denied knowing the victim.

EXPERT TESTIMONY, CREDIBILITY, EYEWITNESS TESTIMONY**State v. Allen**

274 S.W.3d 514, Mo.App., W.D., 2008

Allen tried to put on an expert witness on eyewitness identification. He also offered into evidence the Department of Justice Guidelines on Eyewitness Evidence, and proposed a jury instruction on “the dangers of eyewitness identification,” based on the guidelines. The appeals court found that it was within the trial court’s discretion to disallow the expert testimony. The court found that Allen failed to prove that the guidelines was admissible as a public document under §490.150 — a public document edited by authority of Congress. Nor did the document qualify as a public record.

The court also ruled that it is not an abuse of discretion for the trial court to refuse to submit additional cautionary instructions to the jury concerning eyewitnesses. The jury was properly instructed with MAI-CR3d 302.01, the general credibility instruction.

DWI**State v. Wilson**

273 S.W.3d 80, Mo.App., W.D., 2008

Wilson was convicted of DWI. While there was evidence he drove a vehicle, was involved in a one-car accident, and had a BAC of .150 in the 24-hour period after the accident, this was insufficient to support his conviction because it failed to prove he was drunk when he drove.

The responding trooper did not testify as to when the accident occurred, when he arrived at the scene or at the hospital, what time he observed Wilson undergoing treatment, or what time Wilson’s blood sample was drawn. Nor did the state call the paramedics who took Wilson to the hospital to establish the time or Wilson’s condition at the scene. The passenger in Wilson’s vehicle testified that Wilson had drank “a little” at a Christmas party.

REASONABLE SUSPICION TO PAT DOWN PASSENGERS

Arizona v. Johnson

129 S.Ct. 781, 2009

While patrolling near a Tucson, Arizona, neighborhood associated with the Crips gang, police officers serving on a gang task force stopped a car for an infraction warranting a citation. At the time, the officers had no reason to suspect the occupants of criminal activity.

Officer Trevizo attended to Johnson, the back-seat passenger, whose behavior and clothing caused Trevizo to question him. After learning that Johnson was from a town with a Crips gang and had been in prison, Trevizo asked him get out of the car (away from the front-seat passenger) to question him about his gang affiliation. Because she suspected he was armed, she patted him down and felt a gun. At that point, Johnson began to struggle and Trevizo handcuffed him.

The Arizona Court of Appeals ruled that Johnson's motion to suppress should have been granted because the stop had evolved into a consensual encounter, and therefore the officer had no right to pat down Johnson, even if she thought he might be armed and dangerous.

But the Supreme Court upheld Trevizo's patdown search of Johnson. In a traffic stop setting, the first *Terry* stop condition — a lawful investigatory stop — is met whenever it is lawful for police to detain an automobile and its occupants pending inquiry into a vehicular violation.

The police also need not have cause to believe any occupant of the vehicle is involved in criminal activity. To justify a patdown of the driver or a passenger during a traffic stop, however, just as in the case of a pedestrian reasonably suspected of criminal activity, the police must harbor reasonable suspicion that the person subjected to the frisk is armed and dangerous.

UPDATE: CASE LAW

HORIZONTAL GAZE NYSTAGMUS TESTS

State v. Stone

2009 WL 304422

Mo.App., E.D., Feb. 10, 2009

An officer testified that defendant Randy Stone scored six points on the HGN test and, according to a 2004 study, "if a subject has nystagmus at all six points ... there is an 88 percent probability that [the subject's blood alcohol content] is above the legal limit of .08."

Stone argued that this was improper because HGN evidence cannot be relied on to prove that a defendant's BAC exceeded a certain level.

The court observed that "HGN evidence is admissible as a reliable measure of an illegal level of intoxication," but that "HGN test results are not admissible to estimate that a driver's blood alcohol content was at or exceeded a specific level."

Given these principles, the court rejected Stone's claim: "In this case, the State properly offered evidence of Defendant's HGN test to show that he was intoxicated and did not suggest that Defendant's blood alcohol content was at a specific level. The State's evidence regarding the HGN test's statistical accuracy simply quantified the reliability of the test when used for its proper purpose, namely to establish an illegal level of intoxication."

Since the officer only testified about statistical probabilities, the testimony did not establish Stone's BAC. In any event, the court continued, any error was cured by a curative instruction, and there was no prejudice due to the other evidence of the defendant's intoxication.

WARRANTLESS SEARCHES, CONSENT

State v. Allen

2009 WL 270164

Mo.App., S.D., Feb. 5, 2009

After receiving information that there were drugs in an apartment, two officers asked the owner of the apartment for consent to search. Consent was not given, but after further conversation, the owner admitted there was a marijuana pipe inside.

The officers asked for it, and the owner agreed to get it. The officers asked if they could accompany her, for officer safety and to prevent destruction of evidence.

The owner said she had a guest who was on parole; the officers said they "just wanted the pipe." The owner agreed to let the officers inside.

One officer followed the owner to a bedroom and watched as she took the pipe from a drawer. The officer then asked for consent to search the drawer, and the owner consented. The search turned up "cut," a substance drug dealers use as a filler in drugs.

The officer told the owner that since he had found more than the pipe, the owner "needed to consent to a search of her apartment or [the officer] would get a search warrant." The owner signed a consent to search form, which stated she did not have to consent.

On appeal, the defendant argued that the officers had exceeded the initial scope of the owner's consent since the owner had only consented to the officers obtaining the pipe.

The court disagreed, saying the owner consented at each step of the search. The court said the officers had acted reasonably and had objectively reasonable grounds for asking to enter the apartment.

UPDATE: CASE LAW

SEARCH INCIDENT TO ARREST

Herring v. United States

129 S.Ct. 695, Jan. 14, 2009

Officers in Coffee County, Ala., arrested Bennie Dean Herring on a warrant from a neighboring county. A search incident to the arrest yielded drugs and a gun. It was then revealed that the warrant had been recalled months earlier although the information had never been entered into the database.

Herring, indicted on federal gun and drug possession charges, moved to suppress the evidence on the ground that his initial arrest had been illegal.

When police clerical mistakes leading to an unlawful search are the result of isolated negligence attenuated from the search, rather than systemic error or reckless disregard of constitutional requirements, the exclusionary rule does not apply.

To trigger the exclusionary rule, police conduct must be sufficiently deliberate that exclusion can meaningfully deter it, and sufficiently culpable that such deterrence is worth the price paid by the justice system.

The pertinent analysis is objective, not an inquiry into the arresting officers' subjective awareness.

If, for example, it were shown that police were reckless in maintaining a warrant system, or knowingly made false entries to lay the groundwork for future false arrests, exclusion would be justified where such misconduct caused a Fourth Amendment violation.

But in this case, the conduct was not so objectively culpable as to require exclusion.

State v. Cook, 273 S.W.3d 562, Mo.App., E.D., Dec. 30, 2008

WARRANTLESS ARRESTS, EXIGENT CIRCUMSTANCES

Police officers arrived at Jerry Cook's home to investigate an automobile accident that had been reported 10 minutes earlier. Cook answered the door and acknowledged he had been in an accident about two hours earlier.

The officers could smell alcohol on his breath and, based on this and other observations, believed Cook was intoxicated. Cook's wife said Cook was drunk and had been threatening the family, and that she wanted him taken to jail.

An officer asked Cook for identification. Cook asked permission to go back inside the house to get his ID. The officers followed Cook through the open door. One officer testified that he entered the home because he feared Cook would flee, but at the same time testified that he had no intention of arresting Cook. The other officer also testified that he did not believe Cook was fleeing.

The appeals court found that the arrest was unlawful because the officers did not have an arrest warrant, and the state did not prove the existence of consent or exigent circumstances that would justify the warrantless arrest.

The court noted that it is not "suspicious" for someone to answer their door without having identification on them. A "prudent, cautious and trained officer" would not reasonably assume a suspect was fleeing when the suspected requested permission to enter his home to retrieve ID, especially when the door is left open and the suspect remains in the officers' sight.

While Cook's wife had said he

had been threatening the family, the appeals court noted that the state had not argued exigent circumstances at trial (relying instead on a theory of consent), and the officers did not witness any signs of violence or threats when talking to Cook.

PROBABLE CAUSE

Officers had probable cause to arrest Cook for leaving the scene of an accident. The officers quickly responded to a report of an accident. They found a vehicle on the side of the road, determined it was registered to Cook's wife and then immediately went to Cook's home. Cook answered the door and admitted to driving the vehicle and his involvement in the accident, although claiming it had occurred several hours earlier. Based on this information, it was reasonable for a prudent person to believe that Cook had committed the offense of leaving the scene of an accident.

SEARCH AND SEIZURE, "FRUIT OF THE POISONOUS TREE"

A blood sample and toxicology report were admissible despite the illegal warrantless arrest of Cook resulting from the unlawful entry into Cook's home. The blood sample and toxicology report were not fruit of the illegal arrest.

The officers had probable cause to arrest Cook prior to their unlawful entry into his home and would have been permitted to do so had Cook not been in his home.

The exclusionary rule does not reach to the state's use of evidence obtained outside the home, which would include the blood sample and toxicology report.

Craigslist complies with demands of Koster, other AGs

Craigslist made changes to its Web site after hearing concerns of Attorney General Chris Koster and other Attorneys General during a meeting held in early May in New York.

Changes to Craigslist will include:

- No new advertisements will be placed on its erotic services section.
- Any remaining ads on its erotic services section will expire within seven days.
- The erotic services section will be eliminated in seven days.
- A new adult services section already has been posted.
- Each ad in the adult services section will be manually screened

“We will continue to closely monitor the site to make certain Craigslist’s proposals are effective.”

~ Attorney General Chris Koster

for nude photos and illegal activities, such as prostitution.

- Each new ad will require telephone and credit card verification to post the ad.
- The fee to post an ad in the adult services section will double to \$10. All proceeds derived from ads in this section will continue to be donated to the National Center for

Missing and Exploited Children and other similar organizations in the various states.

“We view these changes as a significant step forward in our negotiations,” Koster said. “Craigslist has complied with the critical demands advanced by the Attorneys General. Specifically, Craigslist will remove the erotic services section and will immediately begin manually reviewing advertisements in the adult services section.

“While no solution is likely to be perfect given the nature of prostitution, Craigslist’s response is a step in the right direction,” Koster said.

UPDATE: CASE LAW

DOMESTIC ASSAULT, APPREHENSION OF PHYSICAL INJURY

State v. M.L.S.

275 S.W.3d 293

Mo.App., W.D., 2008

There was sufficient evidence to establish that M.L.S. intended to place his wife in apprehension of immediate physical injury and that his wife was actually placed in said apprehension.

A reasonable juror could infer that when an intoxicated husband angrily approaches his wife and warns her not to “piss him off,” he intends to place her in apprehension of immediate physical injury to coerce her into submission.

The wife also was smaller in stature than M.L.S. This, combined with M.L.S.’s intoxication, angry manner, threatening words and the victim’s reaction in pushing M.L.S., was sufficient evidence of third-degree domestic assault.

TRAFFIC STOPS, DELAY CAUSED BY CANINE

State v. Woods

2009 WL 585900

Mo.App., W.D., March 10, 2009

After the defendant and his co-defendant avoided a ruse drug checkpoint, an officer pursued the car and observed traffic violations. During an investigation of the stop, the officer noticed other signs that led him to believe the defendant and his co-defendant were involved in drug trafficking.

About eight minutes into the stop, the officer called for a canine unit, which arrived 15 minutes later. During that time, the officer continued his investigation. A search of the car was completed about four minutes after the canine arrived.

On appeal, the defendant argued that the length of the stop was unreasonable. The court disagreed, and concluded that under the circumstances, any delay caused by the canine was reasonable. The court cited

cases involving longer and comparable periods of time for a canine to arrive.

The court also rejected the defendant’s claim that the officer should have limited his investigation to the stated reasons for the traffic stop — the officer should have investigated the traffic violation and written a ticket. But the court pointed out that the officer also had reasonable suspicion to believe the defendant and his co-defendant were trafficking drugs.

TERRY STOP

State v. Dye

272 S.W.3d 879

Mo.App., S.D., 2008

A police officer who received a report of “possible panhandling,” and who then saw the defendant walking down the street, did not have reasonable suspicion of criminal activity; thus, there was no basis to detain the defendant and to do a patdown.

FAKE FUNDRAISERS SUED:

CONTINUED FROM PAGE 1

Commission Chairman Jon Leibowitz in Washington, D.C.

“All of us share a deep trust and respect for law enforcement officers, firefighters and members of the military services,” Koster said. “Missouri’s Attorney General’s Office has no intentions of standing idly by while greedy telemarketers take advantage of that trust and respect.”

Koster’s office led a 33-state investigation into one of the nation’s largest donation solicitors, Community Support Inc. The investigation found many deceptive practices being used, including misrepresenting to consumers that their contributions would be used locally, misrepresenting the percentage of donations that would go to the charities, and misrepresenting that the solicitors were active or retired members of police, firefighter or veteran occupations.

As part of Operation Broken Charity, Koster sued several individuals who run the sham nonprofits Disabled Firefighters Fund Inc., Coalition of Police and Sheriffs Inc. and American Veterans Relief Foundation Inc.

Donors were told that their donations would be used to assist law enforcement officers and firefighters killed or injured in the line of duty and needy veterans and for other charitable purposes.

Only a nominal amount of their donations was used for the charitable purposes.



Donors can find out what percentage of their gifts go to the charitable purpose and what percentage is used for administrative costs by going to the Attorney General’s Check a Charity Web site at **ago.mo.gov**



Attorney General Chris Koster, center, recognizes family members of police officers who lost their lives in the line of duty last year in the St. Louis area. Sgt. Michael King, 50, of University City and Officer Grant Jansen, 42, of St. Charles were remembered. From left is Susan King, widow of Sgt. King; Don Strom, police chief of Washington University Police Department; Koster; June King, Sgt. King’s mother; and behind her, Col. Charles Adams, police chief of University City Police Department. Koster was the keynote speaker at the 18th annual Police Officer Memorial Prayer Breakfast.

Vehicle stops report released

African-Americans still being stopped at higher rates

Attorney General Koster released the 2008 Annual Report on Vehicle Stops that showed more than 1.6 million stops were made by 639 agencies. He commended agencies for their willingness to compile information for the report: 98.5 percent of agencies responded.

The report shows that African-Americans continue to be stopped at higher rates than whites or Hispanics.

The report focuses primarily on disparity indexes, which compare the proportion of stops for drivers of a certain race or ethnicity to the proportion of state or local population of that group. A value of 1 represents no disparity; values over 1 indicate over-representation, while values

2008 Annual Report

MISSOURI VEHICLE STOPS

To [view the report](#), go to **ago.mo.gov**

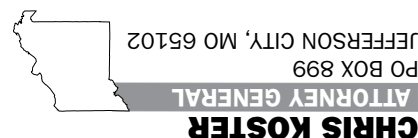
under 1 indicate under-representation.

In 2008, the African-American disparity index was 1.59, up slightly from 1.58 in 2007. This was the fourth straight year that the index rose.

“While no single factor can provide the entire explanation for these numbers, one goal remains fixed — application of the law must be colorblind,” Koster said.

Eleven agencies did not respond in 2008, compared to 22 in 2007. The AG’s Office will submit the names of those agencies to the Governor, as required by law.

“We are better citizens for welcoming an honest and informed discussion of this issue,” Koster said. “It is my hope this report will be a catalyst for dialogue between law enforcement and the communities we serve,” Koster said.

**EVIDENCE RELIABILITY CHALLENGED:** CONTINUED FROM PAGE 1

based on established science.

Other than DNA evidence, which the report acknowledges is highly reliable, the report suggests that many of the forensic testing methods used by crime labs are not supported by sufficient research and scientific validation studies to establish how accurate and reliable those techniques are. The report suggests there should be more independent testing and analysis to support a conclusion that a particular discipline is generally accepted in the scientific community as reliable.

Even such well-established disciplines as firearms comparisons and fingerprinting were questioned because the committee that issued the report thought the “simple reality is that interpretation of forensic evidence is not always based on scientific studies to determine

Report does not conclude that the evidence produced is bad, just that more testing is required to verify the accuracy of the techniques used.

its validity.” The committee also noted that there is no mandatory certification for crime labs, and forensic labs are underfunded and often understaffed.

While some of these concerns are valid, and while the Attorney General’s Office welcomes all efforts to strengthen the reliability and accuracy of all evidence used in criminal prosecutions, it is important to note that this 230 plus-page report is not an indictment of forensic

science that some have portrayed it to be. The report also recognizes the value of some “inexact” sciences such as hair comparisons or blood splatter evidence that, while not intended as conclusive, can eliminate or point toward particular individuals.

The fact that this report was undertaken by the National Academy, at the request of Congress, is likely to give the findings credibility. This may result in more pretrial hearings (called *Frye* hearings) to determine if certain previously recognized scientific techniques will be admissible in a criminal case.

Prosecutors in the AG’s Office believe that the science offered by forensic experts in Missouri is sound and that few of these challenges to established science will be successful.

Nevertheless, these challenges to laboratory techniques and conclusions will, over the short term, increase.